

**STATEMENT OF ATTORNEY GENERAL WAYNE STENEHJEM  
ON THE SETTLEMENT OF THE LAWSUIT AGAINST THE NCAA**

October 26, 2007

On August 5, 2005 the National Collegiate Athletic Association ("NCAA") announced that it had adopted a policy that prohibited the display of Native American names or imagery deemed hostile or abusive on team uniforms and associated paraphernalia at NCAA Championship events and additionally prohibited schools that continue to use Native American names and imagery from hosting or bidding to host Championship events. The Policy further announced a set of "best practices" for member institutions to consider adopting which would encourage member institutions to refrain from scheduling regular season competition with schools that continue to use Native American names and imagery. The University of North Dakota ("UND") was identified and placed on the list of schools subject to these restrictions.

The NCAA subsequently announced the procedures that an identified school had for challenging its inclusion on the list of offending schools. The NCAA also announced that as part of that review, one primary factor that would be considered would be whether a sovereign tribe had provided formal approval for the use of the name and associated imagery. Through the appeals process provided by the NCAA, only those schools with namesake tribal approval were granted exemptions from the Policy.

UND appealed its inclusion on the list of offending school through each step of the internal process afforded by the NCAA. On April 27, 2006, the NCAA issued a final decision rejecting UND's appeal, determining that UND would remain on the list of offending schools deemed to be using hostile or abusive names and imagery.

At the conclusion of the appeals process, it was determined that the only remaining recourse available to UND was through the initiation of litigation. The internal appeals process was complete and UND did not have any further ability to challenge the NCAA's determination and its inclusion of UND on the list of schools deemed to be

using hostile or abusive names and imagery. The North Dakota State Board of Higher Education subsequently authorized, and on October 6, 2006, UND initiated a lawsuit against the NCAA for breach of contract, breach of the implied covenant of good faith and fair dealing, and for violations of North Dakota antitrust law. On November 11, 2006, the District Court issued a preliminary injunction prohibiting the application of the Policy to UND until the issues were resolved at trial.

After extensive negotiation, the State Board of Higher Education on October 26, 2007, formally agreed to settle the lawsuit against the NCAA. Under the settlement terms, UND will be provided a three-year period from November 30, 2007 in which to engage in a dialogue with North Dakota Sioux Tribes for purposes of securing namesake approval for the continued use of the "Sioux" name and logo. If namesake approval is provided by both Spirit Lake and Standing Rock during this time period, the NCAA will agree to exempt UND from application of the Championship restrictions.

At the end of the three-year period, should UND not have namesake approval from both Spirit Lake and Standing Rock, UND agrees to transition to a new name and logo. The NCAA agrees to provide UND additional time until August 15, 2011 to accomplish the transition. In addition, certain imagery is allowed to transition at later dates, and some imagery would be allowed to remain indefinitely without implicating championship restrictions.

The NCAA also expressly agreed to make a public statement on the campus environment at UND. The NCAA statement is:

The NCAA recognizes the University of North Dakota's many programs and outreach services to the Native American community and surrounding areas. The University of North Dakota is a national leader in offering educational programs to Native Americans.

The University has indicated that it intends to use the current name and logo with the utmost respect and dignity, and only for so long as it may do so with the support of the Native

American community. The NCAA does not dispute UND's sincerity in this regard.

The NCAA believes, as a general proposition, that the use of Native American names and imagery can create a hostile or abusive environment in collegiate athletics. However, the NCAA did not make any other findings about the environment on UND's campus. The NCAA also acknowledges that reasonable people can disagree about the propriety of Native American imagery in athletics. The NCAA believes that the time has come to retire Native American imagery in college sports.

This public acknowledgement was an important component of the settlement.

The settlement was agreed to by the Board by unanimous vote and approved by the Attorney General. As part of the settlement, it is stipulated that the lawsuit against the NCAA will be dismissed with prejudice.

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